

## ***Advocacy Submits Comments to DOL: Most Small Businesses Support 35K Overtime Threshold; Rural Businesses Still Seek Relief***

On May 20, 2019, the Office of Advocacy (Advocacy) filed a comment letter with the U.S. Department of Labor (DOL) on its Proposed Rule on its overtime regulations and exemptions under the Fair Labor Standards Act (FLSA).

- The Fair Labor Standards Act (FLSA) guarantees a minimum wage and overtime pay of time and a half for work over 40 hours a week. The FLSA has a “white collar” exemption from minimum wage and overtime pay for executive, administrative, professional, outside sales, and computer employees. To be considered exempt, employees must meet tests related to their primary job duties, be paid on a salary basis, and be paid not less than the minimum salary threshold.
- In March 2019, DOL released a rule proposing a methodology for the minimum salary threshold of \$35,308 per year for this exemption. This rule also proposes to rescind a 2016 final rule that had changed the minimum salary threshold for the “white collar” exemption from \$23,660 to \$47,476. The 2016 final rule never became effective due to legal challenges. The minimum salary threshold has not been changed since 2004.
- Advocacy expressed general support for the more moderate \$35,308 minimum salary threshold in proposed rule in a public comment letter to DOL. Small businesses told Advocacy that the DOL 2016 final rule, which doubled of the minimum salary threshold from in such a short time frame, would have been disruptive and costly for their companies.
- Some small businesses from rural communities and in certain industries still expressed concern that the \$35,308 minimum salary threshold was still too high and suggested several recommendations to reduce the economic impact of this rule.
- Advocacy also supports DOL’s proposal to update minimum salary threshold once every four years through a rule published in the Federal Register, followed by a notice-and-comment rulemaking. Advocacy believes that gradual and reasonable increases in this minimum salary threshold will lessen the economic impact of this rule for small businesses.

For more information, visit Advocacy’s webpage at <https://advocacy.sba.gov>, or contact Assistant Chief Counsel Janis Reyes by email at [Janis.Reyes@sba.gov](mailto:Janis.Reyes@sba.gov) or by phone at 202-205-6533.

